State of Louisiana

EXECUTIVE DEPARTMENT

PROCLAMATION NUMBER 38 JBE 2020

ADDITIONAL MEASURES FOR COVID-19 FUNERAL SERVICES AND INTERMENTS, EMERGENCY TEMPORARY SUSPENSION OF CERTAIN LICENSURE, SCOPE OF PRACTICE, CERTIFICATION REQUIRMENTS FOR HEALTHCARE PROVIDERS

WHEREAS, pursuant to the Louisiana Homeland Security and Emergency Assistance and Disaster Act, La. R.S. 29:721, *et seq.*, the Governor declared a public health emergency in Proclamation Number 25 JBE 2020 in response to the threat posed by COVID-19;

WHEREAS, on March 11, 2020, in Proclamation Number 25 JBE 2020, the Governor declared that a statewide public health emergency existed in the State of Louisiana because of COVID-19 and expressly empowered the Governor's Office of Homeland Security and Emergency Preparedness and the Secretary of the Department of Health and/or the State Health Officer to take all actions authorized under state law;

WHEREAS, on March 13, 2020, in Proclamation Number 27 JBE 2020, the Governor supplemented the measures taken in his declaration of a Public Health Emergency with additional restrictions and suspensions of deadlines and regulations in order to protect the health and safety of the public because of COVID-19;

WHEREAS, the original proclamation was further supplemented on March 14, 2020, March 16, 2020, March 19, 2020, March 22, 2020, and March 26, 2020, in order to protect the health and safety of the public because of the extraordinary threat posed by COVID-19;

WHEREAS, in the days since the declaration of the public health emergency, the COVID-19 outbreak in Louisiana has expanded significantly;

WHEREAS, in light of the current public health emergency and the limitations on gathering sizes, many funeral directors, cemeteries, and mourners have delayed or suspended funerals, interments, and cremations;

WHEREAS, these delays and suspensions are placing an strain on the resources of funeral homes, hospitals, and coroners;

WHEREAS, these delays and suspensions are placing a psychological strain on the families and mourners of the deceased;

WHEREAS, in addition, the Secretary of United States Health and Human Services has asked states to suspend various statutes in order for healthcare professionals to respond to the COVID-19 outbreak as well as to treat patients in a way that is safest for the patient and the practitioner;

WHEREAS, the Secretary of the Louisiana Department of Health has also requested that various requirements set forth in Louisiana law be temporarily suspended to assist with increasing Louisiana health care providers' ability to respond to the current public health emergency;

WHEREAS, Louisiana Revised Statute 29:766 authorizes the Governor, during a declared state of public health emergency, to suspend the provisions of any regulatory

statute prescribing procedures for the conducting of state business, or the orders, rules, or regulations of any state agency, if strict compliance with the provisions of any statute, order, rule, or regulation would in any way prevent, hinder, or delay necessary action in coping with the emergency; and

WHEREAS, these measures are necessary to protect the health and safety of the people of Louisiana.

NOW THEREFORE, I, JOHN BEL EDWARDS, Governor of the State of Louisiana, by virtue of the authority vested by the Constitution and the laws of the State of Louisiana, do hereby order and direct as follows:

SECTION 1:

A) Pursuant to the Stay at Home Order issued by Proclamation Number 33 JBE 2020, funeral services must be limited to attendees of no more than 10 people. Funeral directors are directed to limit the number of personnel present at any such service to only one single funeral director and to ensure the enforcement of the CDC's social distancing guidelines during the conduct of the funeral.

B) Pursuant to the Stay at Home Order issued by Proclamation Number 33 JBE 2020, graveside services must be limited to attendees of no more than 10 people. Funeral directors are directed to phase the individuals present at graveside services as follows:

i) Rather than the standard practice of several funeral directors, staff, clergy, and pallbearers being present for funerals or graveside committals, funeral directors shall limit non-family attendees to essential personnel only and follow CDC's social distancing guidelines at all times.

ii) Any family and mourners attending a funeral or graveside service shall not exceed the 10-person limit of Proclamation 33 JBE 2020 and such number shall include any funeral staff and clergy necessary to conduct the service, unless funeral staff and clergy are at a distance of no less than 10 feet from the family and mourners.

iii) In no event should funeral directors authorize or permit walking visitations or continuous streams of visitors to funeral homes or gravesides, as such activities violate the current Stay at Home Order and the CDC's social distancing guidelines and present an increased risk of COVID-19 spread.

iv) Any staff required to open or close graves shall be present in the respective cemetery at a distance of no less than 30 feet from the funeral or committal group at all times and shall not approach the grave until after that group has departed or before it has arrived.

C) In order to facilitate the timely handling and interment or cremation of deceased in this State, funeral directors shall be considered "essential workers" for the purposes of obtaining access to personal protective equipment ("PPEs") and for the purposes of conducting the necessary business of death care in the State.

D) The Department of Health is hereby directed to publish guidance that funerals for COVID-19 positive decedents be conducted, as recommended by the CDC, within three days, if practical.

E) In order to facilitate the timely cremation of remains pursuant to the express wishes of the deceased or of those authorized to direct disposition under La. R.S. 8:655 (whichever is applicable under the law), the signatures and notarization required for cremation authorizations under La. R.S. 37:876-877 are hereby waived inasmuch as they can be replaced by faxed, scanned,

or photographed signatures on the requisite paperwork and video conferencing without the need for a notary. In no event shall this waiver be interpreted as an authorization to proceed with cremation in the absence of the signatures of those required by La. R.S. 37:876-877 or against the express wishes of those individuals identified by La. R.S. 8:655. Rather, this limited waiver merely authorizes the obtaining of such signatures remotely to avoid violations of the Stay at Home Order of Proclamation Number 33 JBE 2020 and the CDC's social distancing guidelines.

F) To the extent necessary and as permitted by the orders of the Louisiana Supreme Court issued on March 16, 2020, and March 20, 2020, the district courts of this State shall consider petitions brought pursuant to La. R.S. 8:655(E) by funeral directors, hospitals, or coroners during the term of this proclamation as essential proceedings necessary to respond to the COVID-19 event.

G) In no event shall this proclamation be interpreted to waive any other provisions of Title 8 or Chapter 10 of Title 37 of the Louisiana Revised Statutes that are not expressly identified herein.

H) These provisions in Section 1 are effective upon signature and shall remain effective until Thursday, April 30, 2020, or as extended by any subsequent Proclamation, unless terminated sooner.

SECTION 2:

A) The licensing and certification requirements for the Louisiana State Board of Chiropractic Examiners set forth in R.S. 37:2805(C), which states that the Board shall notify each applicant of acceptance or rejection of application not less than 30 days prior to the National Board of Chiropractic Examiners examination, are temporarily suspended.

B) The collaborative practice agreement requirements of the Louisiana State Board of Medical Examiners and the Louisiana State Board of Nursing for advanced practice registered nurses, including certified nurse midwives, certified registered anesthetists, clinical nurse specialists, and nurse practitioners, are suspended for this public health emergency.

C) The requirements that a certified registered nurse anesthetist provide anesthesia care under the direction and supervision of a physician or dentist licensed to practice in Louisiana as set forth in R.S. 37:930(A)(3) and (F) are temporarily suspended, provided that the certified registered nurse anesthetist is within his/her scope of practice and has the education, knowledge, skills, and ability to provide such anesthesia care and ancillary services without supervision or direction.

D) The penalties set forth for practicing nursing without a duly issued registered nurse license in the state of Louisiana set forth in R.S. 37:925(A)(3) and (4) are temporarily suspended, so long as the individual has an active, unrestricted, unencumbered license to practice registered nursing in any U.S. state, territory, or district, and the individual has no charges pending against his/her license and the individual is not enrolled in an alternative to discipline program.

E) Relative to the authority of a registered nurse to administer anesthetic agents in certain settings in R.S. 37:935, the Louisiana State Board of Nursing shall provide by emergency rule that, for the purpose of providing care during the COVID-19 pandemic, "critical care settings" shall include all healthcare settings in which anesthetic agents have to be administered to intubated patients.

F) The penalties set forth for practicing practical nursing without a duly issued license in the state of Louisiana set forth in R.S. 37:978(A)(3) and (4) are temporarily suspended, so long as the individual is licensed to practice practical nursing in any U.S. state, territory or district.

G) The requirements for the State Board of Social Work Examiners to issue a social worker certificate set forth in R.S. 37:2724(B), specifically the requirement that Certified Social Workers pass an examination within a specific time frame, are temporarily suspended.

H) The requirement that all licensed home health agencies admit patients for skilled care only on the order of a physician set forth in R.S. 40:2116.34(A)(1) is temporarily suspended to permit physician assistants, advanced practice registered nurses, certified nurse practitioners, clinical nurse specialists, and certified nurse midwives to order home health services.

I) The requirement that the clinical dental licensing examination include procedures performed on human subjects as set forth in R.S. 37:761(C) is hereby temporarily suspended, for those 2020 graduates of the LSU dental program who have applied and otherwise completed their licensing applications with the Louisiana State Board of Dentistry in 2020.

J) The requirement that all clinical dental hygiene licensing examinations include procedures performed on human subjects as set forth in R.S. 37:764(D), is hereby temporarily suspended, for those 2020 graduates of the LSU dental hygiene program, as well as for any other 2020 graduates of any other dental hygiene program in Louisiana that is accredited by the Commission on Dental Accreditation ("CODA"), who have applied and otherwise completed their licensing applications with the Louisiana State Board of Dentistry in 2020.

K) The requirement that an out-of-state registered nurse or an out-of-state advanced practice registered nurse (including an out-of-state certified nurse midwife, a certified registered nurse anesthetist, a clinical nurse specialist, and a nurse practitioner) obtain a license to practice registered nursing or advanced practice registered nursing in Louisiana as set forth in R.S. 37:920, is temporarily suspended provided that such person has an active, unencumbered, unrestricted license to practice registered nursing or advanced practice registered nursing from any U.S. state, territory, or district, which has been confirmed through the NURSYS System.

L) An individual physician who holds a full, unlimited, and unrestricted license to practice medicine in another U.S. state, territory, or district and who has unrestricted hospital credentials and privileges in any U.S. state, territory, or district, may practice medicine at a hospital that is licensed by the Louisiana Department of Health upon the following terms and conditions being met:

i) The licensed Louisiana hospital shall verify all physicians' credentials and privileges;

ii) The licensed Louisiana hospital shall keep a list of all physicians coming to practice at the hospital and shall provide this list to the Louisiana State Board of Medical Examiners within ten (10) days of each physician starting practice at the licensed Louisiana hospital; and

iii) The licensed Louisiana hospital shall also provide written notice to the Louisiana State Board of Medical Examiners as of the date that the physician stopped practicing medicine in Louisiana at that hospital; such written notification shall be made within ten (10) days of the physician's cessation of practice of medicine at that Louisiana hospital.

M) An individual physician's assistant who holds a full, unlimited, and unrestricted license to practice in another U.S. state, territory, or district and who has unrestricted hospital credentials and privileges in any U.S. state,

territory, or district, may practice at a hospital that is licensed by the Louisiana Department of Health upon the following terms and conditions being met:

i) The licensed Louisiana hospital shall verify all physician's assistants' credentials and privileges;

ii) The licensed Louisiana hospital shall keep a list of all physician's assistants coming to practice at the hospital and shall provide this list to the Louisiana State Board of Medical Examiners within ten (10) days of each physician assistant starting practice at the licensed Louisiana hospital; and

iii) The licensed Louisiana hospital shall also provide written notice to the Louisiana State Board of Medical Examiners as of the date that the physician assistant stopped practicing in Louisiana at that hospital; such written notification shall be made within ten (10) days of the physician's assistant's cessation of practice at that Louisiana hospital.

N) An individual respiratory therapist who holds a full, unlimited, and unrestricted license to practice in another U.S. state, territory, or district and who has unrestricted hospital credentials in any U.S. state, territory, or district, may practice at a hospital that is licensed by the Louisiana Department of Health upon the following terms and conditions being met:

i) The licensed Louisiana hospital shall verify all respiratory therapists' credentials and shall issue a scope of hospital practice for each respiratory therapist;

ii) The licensed Louisiana hospital shall keep a list of all respiratory therapists coming to practice at the hospital and shall provide this list to the Louisiana State Board of Medical Examiners within ten (10) days of each respiratory therapist starting practice at the licensed Louisiana hospital; and

iii) The licensed Louisiana hospital shall also provide written notice to the Louisiana State Board of Medical Examiners as of the date that the respiratory therapist stopped practicing in Louisiana at that hospital; such written notification shall be made within ten (10) days of the respiratory therapist's cessation of practice of medicine at that Louisiana hospital.

O) An individual advanced practice registered nurse (including a certified nurse midwife, a certified registered nurse anesthetist, a clinical nurse specialist, and a nurse practitioner) who holds an active, unencumbered, and unrestricted license to practice advanced practice registered nursing in another U.S. state, territory, or district as confirmed through the NURSYS System, and who has unrestricted hospital credentials and privileges in any U.S. state, territory, or district, may practice nursing at a hospital that is licensed by the Louisiana Department of Health upon the following terms and conditions being met:

i) The licensed Louisiana hospital shall verify all the advanced practice registered nurses' credentials and privileges;

ii) The licensed Louisiana hospital shall keep a list of all advanced practice registered nurses coming to practice at the hospital and shall provide this list to the Louisiana State Board of Nursing within ten (10) days of each advanced practice registered nurse starting practice at the licensed Louisiana hospital; and

iii) The licensed Louisiana hospital shall also provide written notice to the Louisiana State Board of Nursing as of the date that the advanced

practice registered nurse stopped practicing nursing in Louisiana at that hospital; such written notification shall be made within ten (10) days of the advanced practice registered nurse's cessation of practice of nursing at that Louisiana hospital.

P) The requirement that there be a quorum of a healthcare professional licensing board or authority for decision-making as set forth in R.S. 42:13 and the respective board statutes, is temporarily suspended to allow the Executive Director of that healthcare professional licensing board to temporarily suspend, waive, or amend a board rule or regulation that would prohibit, limit, or interfere with the licensing of healthcare professionals that are necessary to address the declared public health emergency.

Q) No healthcare professional licensing board shall issue an adverse action or penalty against an individual applicant or licensee under the jurisdiction of that board for the failure of that applicant or licensee for failure to comply with a procedural licensing requirement during the declared public health emergency, provided that the individual applicant or licensee made a good faith attempt to comply with the procedural requirements of the licensing board.

R) The provisions in Section 2 herein are shall apply retroactively from March 11, 2020.

S) The Department of Public Safety shall prioritize any finger printing and criminal background check required for the certification or licensing of any healthcare worker during this emergency. However, no finger printing or criminal background checks shall be required for any healthcare worker covered in this proclamation provided the health care worker holds a full, unlimited, and unrestricted license to practice in another U.S. state, territory, or district.

SECTION 3: The Governor's Office of Homeland Security and Emergency Preparedness is directed to ensure compliance with this order, and is empowered to exercise all authorities pursuant to La. R.S. 29:721, et seq., and La. R.S. 29:760, et seq.

SECTION 4: Unless otherwise provided in this order, these provisions are effective until Thursday, April 30, 2020, or as extended by any subsequent Proclamation, unless terminated sooner.

IN WITNESS WHEREOF, I have set my hand officially and caused to be affixed the Great Seal of Louisiana in the City of Baton Rouge, on this 31st day of March, 2020.

GOVERNOR OF LOUISIANA

ATTEST BY THE
SECRETARY OF STATE

SECRETARY OF STATE